

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**JAMES RUSSELL MILLER**

**PLAINTIFF**

**VS**

**CIVIL ACTION NO.: 3:14-cv-427-HTW-LRA**

**MANAGEMENT & TRAINING CORPORATION, et. al.**

**DEFENDANT**

**ORDER**

Before this Court is a Motion to Amend/Correct Docket No. 182 Memorandum in Support [Docket No. 184] filed on April 26, 2017, by Plaintiff James Russell Miller (“Plaintiff”). The movant requests leave to file an Amended Memorandum in Support of his Response in Opposition to Defendant’s Motion for Attorney’s Fees [Docket No. 177], which was filed by Defendant Management & Training Corporation (“Defendant”) on April 6, 2017.

In his response to Defendant’s Motion for Attorney’s Fees, Plaintiff’s counsel submitted no arguments as to the merits of the Defendant’s motion; instead, Plaintiff’s counsel argued that the Defendant’s motion was untimely and, as such, should be denied. Plaintiff’s counsel cited Federal Rule of Civil Procedure 54(d)(2)(B), which governs the timeliness of such filings. The rule states that a motion seeking attorney’s fees “must be filed no later than 14 days after the entry of judgment.” Fed. R. Civ. P. 54(d)(2)(B).

Plaintiff’s counsel calculated that the time limit under the Rule began on March 24, 2017, and that Defendant’s motion was due no later than April 6, 2017. Counsel then reached his mistaken assertion that Defendant’s motion was filed on April 7, 2017, and therefore was untimely and should be denied. Finally, Plaintiff’s counsel argued that “deadlines are strictly construed in the United States” [Docket No. 182, p. 2]. Plaintiff’s counsel provided no alternative arguments

for the relief requested, nor any substantive arguments on the merits of Defendant's motion.

On April 26, 2017, Plaintiff's counsel filed the instant motion to Amend/Correct his Response to Defendant's Motion for Attorney's Fees. In his motion, Plaintiff's counsel admits that he incorrectly read the filing deadline of Defendant's Motion for Attorney's Fees, and responded to the mistaken timeliness of the motion rather than to the merits of the motion.

Plaintiff's counsel now argues that his mistake constituted excusable neglect, and asks for permission to amend his response in order to provide an argument on the merits. This Court is not persuaded to allow Plaintiff leave to amend his response to address the merits of Defendant's motion.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend/Correct Docket No. 182 Memorandum in Support [Docket No. 184] is DENIED.

**SO ORDERED** this 29th day of October, 2017.

s/ HENRY T. WINGATE  
UNITED DISTRICT COURT JUDGE